

**EXHIBIT "A"**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT NEW YORK

RAJKO LJUTICA

Plaintiff,

v.

ALBERTO R. GONZALES,

U.S. Attorney General,

MICHAEL CHERTOFF,

Secretary, Department Homeland Security,

EDUARDO AGURRE, Director,

U.S. Citizenship and Immigration Services,

ANDREA J. QURANTILLO,

Field Office Director, New York

Defendants,

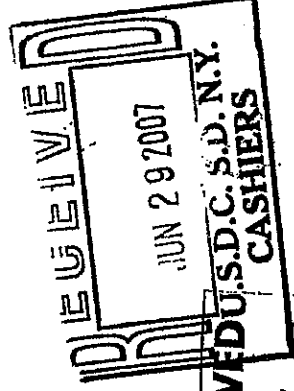
Civil No.

'07 CIV

6129

COMPLAINT

JUDGE RAKOFF



COPY RECEIVED  
JUL 17 2007  
U.S. ATTORNEYS SDNY

COMPLAINT SEEKING DE NOVO HEARING AND DECLARATORY RELIEF

This action arises under the Immigration and Nationality Act ("INA") for a de novo review and hearing on a naturalization application, and under the Administrative Procedure Act ("APA") for declaratory and other appropriate relief. Mr. Rajko Ljutica (hereinafter Plaintiff) requests that the Court conduct a de novo review and a hearing on his application for naturalization pursuant to 8 U.S.C. 1421(c). Additionally, Plaintiff requests that the Court make a finding that he is prima facie eligible to naturalize and order defendants to naturalize the Plaintiff.

## JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction under 8 U.S.C. 1421(c) to conduct a de novo review of a naturalization application, making its own findings of fact and conclusions of law.
2. This Court has subject matter jurisdiction for declaratory and other appropriate relief under 5 U.S.C. 702 [Judicial review of Agency Action and 28 U.S.C. 2201 [Declaratory Judgment]]. Defendants are agencies within the meaning of 5 U.S.C. 701(b)(1). The agency actions that form the basis of the complaint are adjudications within the meaning of 5 U.S.C. 551.
3. Venue is proper in the U.S. District Court for Southern District New York, the judicial district in which Plaintiff resides, the events giving rise to this action occurred, and where Defendants routinely conduct business. 28 U.S.C. 1391 (e).

## PARTIES

1. Plaintiff, Mr. Ljutica, is a citizen of Republic of Montenegro who resides in New York, New York and was designated as a Lawful Permanent Resident ("LPR") on September 11, 1988.
2. Defendants, Mr. Alberto R. Gonzales, Attorney General of the United States, and Mr. Michael Chertoff, Secretary, Department of Homeland Security ("DHS"), are being sued in their official capacities. In those capacities, they are responsible for implementing the immigration laws of the United States and it is their delegation of authority to the USCIS that permits USCIS officials to act under Color of Law of the United States.

3. Defendants, Mr. Eduardo Aguirre, is the Director of the USCIS, and he is being sued in his official capacity. In this capacity, Mr. Aguirre is responsible for the administration of benefits governed by the Immigration and Nationality Act ("INA").

4. Defendants, Ms. Andrea J. Qurantillo, is the Field Office Director of the USCIS in New York City, New York. In this capacity, Ms. Qurantillo is responsible for adjudications of immigration applications filed with her office.

#### STATEMENT OF CLAIM

5. Plaintiff alleged that he is eligible for a grant of his naturalization application, including a finding of good moral character, based on the amount and weight of evidence he submitted of his good moral character.

6. Plaintiff submitted an Application for Naturalization (N-400) to the USCIS on March 28, 2005. A copy of the N-400 application is attached hereto as **Exhibit "A"**.

7. On April 24, 2005 INS issued a fingerprint notification to Plaintiff for May 6, 2005. On May 6, 2005, the Plaintiff completed his biometrics requirement at the Varick Street Applicant Support Center. Attached hereto hereto as **Exhibit "B"** is a copy of the appointment notification.

8. On November 16, 2005, the Plaintiff had an interview before a USCIS officer at the New York City Field Office located at 26 Federal Plaza, New York, N.Y. and he passed all of the required Civic elements for naturalization. Attached hereto as **Exhibit "C"** is a copy of the Naturalization Interview Results.

9. On September 18, 2006, the USCIS issued a decision on Plaintiff's N-400 Application for

Naturalization and denied the naturalization because it was determined that Plaintiff was ineligible for naturalization because he was convicted of an aggravated felony as defined under INA 101 (a)(43)(M)(i). Attached hereto as Exhibit "D" is a copy of the denial.

10. On October 16, 2006 the USCIS accepted the Plaintiff's N-336, Request for a Hearing on a Decision in Naturalization Proceedings. Attached to the N-336 was a Brief submitted by plaintiff's counsel arguing that the USCIS erred in the application of relevant case law and statutes. Attached hereto as Exhibit "E" is a copy of the N-336 [the Request for a Hearing] and the Brief submitted along with the N-336 request.

11. As a result of the filing of the N-336, on January 24, 2007, USCIS scheduled an appointment for the appeal on the N-400 application. Attached hereto as Exhibit "F" is a copy of the notice for the appointment for the appeal.

12. On February 8, 2007, the USCIS conducted an interview of the Plaintiff. During the interview the attorney for the Plaintiff, Walter Drobenko, Esq. (hereinafter DROBENKO) advised the interviewing officer that for the Plaintiff to be considered an "aggravated felon" under Section 101(a)(43)(M)(i) of the INA the two pronged test must be satisfied and that these elements could not be separated out for the SERVICE's convenience or personal option. Furthermore, DROBENKO set forth that the two pronged test requires that (1) the offense must involve fraud or deceit, and (2) the offense must also have resulted in a loss to the victim or victims of more than \$10,000.

13. DROBENKO further cited and provided a copy to the interviewing officer the case entitled Steve Kie Chang v. Immigration & Naturalization Service, 307 F.3d 1185 (9<sup>th</sup>

Circuit Court of Appeals 2002). Moreover, DROBENKO advised the interviewing officer that pursuant to the Court decision in Chang the INS must approve Plaintiff's naturalization application because Plaintiff's fraud offense did not result in a loss to the victim or victims exceeding \$10,000.

14. DROBENKO further explained to the interviewing officer that in Aubrey Malcolm Munroe v. John Ashcroft 353 F.3d 255, the Third Circuit held that, "In order to qualify as an aggravated felony conviction, in addition to the fraud element the offense had to involve a loss to a victim or victims that exceeded \$10,000."
15. Notwithstanding the above case law cited, on March 09, 2007, Andrea J. Quarantillo, District Director for the New York Field Office issued a decision concluded that the Plaintiff was convicted of an aggravated felony and thus barred from ever establishing good moral character. Attached hereto as Exhibit "G" is a copy of said decision.

16. Plaintiff exhausted his administrative remedies by requesting a hearing pursuant to INA sec.336.

**AS AND FOR THE FIRST CAUSE OF ACTION AGAINST THE DEFENDANTS**

17. Plaintiff is entitled to be naturalized as a citizen of the United States because he was lawfully admitted as permanent resident, has continually resided in the U.S. for five years since his lawful admission as an LPR, and is eligible to establish good moral character and has established good moral character.

**AS AND FOR THE SECOND CAUSE OF ACTION AGAINST THE DEFENDANTS**

18. The Plaintiff is not to be considered an aggravated felon as the Plaintiff's criminal

conviction for fraud does not satisfy the two pronged test established in Steve Kie Chang v. Immigration & Naturalization Service, 307 F.3d 1185 (9<sup>th</sup> Circuit Court of Appeals 2002).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that this Court grant the following relief:

- A. Assume jurisdiction over this matter;
- B. Declare that Plaintiff was lawfully admitted as a permanent resident;
- C. Declare that Plaintiff has continually resided in the U.S. for five years since his lawful admission to permanent residence;
- D. Declare that Plaintiff is prima facie eligible for naturalization;
- E. Conduct a de novo hearing on the Plaintiff's application for naturalization under the terms of 8 U.S.C. 1447(b), declare that the Plaintiff is qualified for naturalization, and order Defendants to naturalize him;
- F. Grant such further relief as this Court deems just and proper.

Dated: June 21, 2007

Respectfully submitted,

DROBENKO & ASSOCIATES, P.C.



Walter Drobenko, Esq. (WD3552)

Attorney for Plaintiff

25-84 Steinway Street

Astoria, N.Y. 11103

(718) 721-2000

**EXHIBIT "B"**



early or type your answers using CAPITAL letters. Failure to print clearly may delay your application. Use black or blue ink.

**Your Name (Type or Print your name as it appears on your current legal name.)**

current legal name.

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)

n/a

name exactly as it appears on your Permanent Resident Card.

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)

n/a

have ever used other names, provide them below.

Family Name (Last Name)

Given Name (First Name)

Middle Name

change (optional)

read the Instructions before you decide whether to change your name.

would you like to legally change your name? ☐ Yes ☒ No

"Yes," print the new name you would like to use. Do not use initials or abbreviations when writing your new name.

Family Name (Last Name)

Given Name (First Name)

Middle Name

**Your Name (Type or Print your name as it appears on your current legal name.)**

at least 18 years old AND

I have been a Lawful Permanent Resident of the United States for at least 5 years.

I have been a Lawful Permanent Resident of the United States for at least 3 years, AND I have been married to and living with the same U.S. citizen for the last 3 years, AND my spouse has been a U.S. citizen for the last 3 years.

I am applying on the basis of qualifying military service.

Other (Please explain)

Write your INS "A"-number here:  
A 0 2 9 5 1 2 9 1 8

FOR INS USE ONLY

Bar Code	Date Stamp
Remarks	
Action	

**Part B: Information About You**

Write your INS "A" - number here:

A 0 2 9 5 1 2 9 1 8

Social Security Number

0 8 2 - 7 4 - 8 3 4 8

B. Date of Birth (Month/Day/Year)

1 0 / 1 2 / 1 9 5 7

C. Date You Became a Permanent Resident (Month/Day/Year)

1 1 / 0 9 / 1 9 8 8

Country of Birth

Yugoslavia

E. Country of Nationality

Yugoslavia

Are either of your parents U.S. citizens? (If yes, see Instructions) ☐ Yes ☒ No

What is your current marital status? ☐ Single, Never Married ☒ Married ☐ Divorced ☐ Widowed

☐ Marriage Annulled or Other (Explain) \_\_\_\_\_

Are you requesting a waiver of the English and/or U.S. History and Government requirements based on a disability or impairment and attaching a Form N-648 with your application? ☐ Yes ☒ No

Are you requesting an accommodation to the naturalization process because of a disability or impairment? (See Instructions for some examples of accommodations.) ☐ Yes ☒ No

If you answered "Yes", check the box below that applies:

☐ I am deaf or hearing impaired and need a sign language interpreter who uses the following language: \_\_\_\_\_

☐ I use a wheelchair. \_\_\_\_\_

☐ I am blind or sight impaired. \_\_\_\_\_

☐ I will need another type of accommodation. Please explain: \_\_\_\_\_

**Part C: Addresses and Telephone Numbers**

Home Address - Street Number and Name (Do NOT write a P.O. Box in this space)

130 Malcolm X Blvd

Apartment Number

705

City

New York

County

Bronx

State

New York

ZIP Code

10029

Country

USA

Are of

Mailing Address - Street Number and Name (If different from home address)

Drobenko & Associates

25-84 Steinway Street

Apartment Number

City

Astoria

State

New York

ZIP Code

11103

Country

USA

Daytime Phone Number (If any)

(718 ) 721-2000

Evening Phone Number (If any)

(718 ) 721-2000

E-mail Address (If any)

Write your INS "A"-number here:  
A 0 2 9 5 1 2 9 1 8

**Part 1: Information for Criminal Records Search**

e: The categories below are those required by the FBI. See Instructions for more information.

Gender

☒ Male ☐ Female

B. Height

6 Feet 2.0 Inches

C. Weight

215.0 Pounds

Are you Hispanic or Latino? ☐ Yes ☒ No

Race (Select one or more.)

☒ White ☐ Asian ☐ Black or African American

☐ American Indian or Alaskan Native ☐ Native Hawaiian or Other Pacific Islander

Hair color

☒ Black ☐ Brown ☐ Blonde ☐ Gray ☐ White ☐ Red ☐ Sandy ☐ Bald (No Hair)

Eye color

☒ Brown ☐ Blue ☐ Green ☐ Hazel ☐ Gray ☐ Black ☐ Pink ☐ Maroon ☐ Other

**Part 2: Information About Your Residence and Employment**

Where have you lived during the last 5 years? Begin with where you live now and then list every place you lived for the last 5 years. If you need more space, use a separate sheet of paper.

Street Number and Name, Apartment Number, City, State, Zip Code and Country	Dates (Month/Year)	
	From	To
Current Home Address - Same as Part 4.A	0 9 / 2 0 0 1	Present
9 Columbus Ave, N.Y., N.Y. 10024	0 4 / 1 9 9 9	0 9 / 2 0 0 1
	/	/
	/	/
	/	/

Where have you worked (or, if you were a student, what schools did you attend) during the last 5 years? Include military service. Begin with your current or latest employer and then list every place you have worked or studied for the last 5 years. If you need more space, use a separate sheet of paper.

Employer or School Name	Employer or School Address (Street, City and State)	Dates (Month/Year)		Your Occupation
		From	To	
1's Limo	11-01 43rd Ave, L.I.C., NY, 11101	0 9 / 2 0 0 3	/	Limo Driver
Key International	27-10 49th Ave, L.I.C., NY, 11101	0 8 / 2 0 0 0	0 8 / 2 0 0 3	Limo Driver
employed		0 3 / 2 0 0 0	0 7 / 2 0 0 0	unemployed
		/	/	
		/	/	

Write your INS "A" - number here:  
A 0 2 9 5 1 2 9 1 8

How many total days did you spend outside of the United States during the past 5 years?

97 days

How many trips of 24 hours or more have you taken outside of the United States during the past 5 years?

3 trips

List below all the trips of 24 hours or more that you have taken outside of the United States since becoming a Lawful Permanent Resident. Begin with your most recent trip. If you need more space, use a separate sheet of paper.

Date You Left the United States (Month/Day/Year)	Date You Returned to the United States (Month/Day/Year)	Did Trip Last 6 Months or More?	Countries to Which You Traveled	Total Days Out of the United States
2 / 2 0 / 2 0 0 2	0 1 / 1 0 / 2 0 0 3	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Yugoslavia	22
8 / 0 1 / 2 0 0 3	0 9 / 1 5 / 2 0 0 3	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Yugoslavia	45
7 / 2 9 / 2 0 0 4	0 8 / 2 9 / 2 0 0 4	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Yugoslavia	30
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		
/ / /	/ / /	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Information About Your Marriage History

How many times have you been married (including annulled marriages)?

1

If you have NEVER been married, go to Part 9.

If you are now married, give the following information about your spouse:

Spouse's Family Name (Last Name) Given Name (First Name) Full Middle Name (If applicable)

Date of Birth (Month/Day/Year) 3. Date of Marriage (Month/Day/Year) 4. Spouse's Social Security Number

Home Address - Street Number and Name Apartment Number

City State ZIP Code

**8. Information About Your Marriages (Continue)**

Write your INS "A"- number here:  
A 0 2 9 5 1 2 9 1 8

your spouse a U.S. citizen? ☐ Yes ☐ No

your spouse is a U.S. citizen, give the following information:

When did your spouse become a U.S. citizen?

If "Other," give the following information:

Date your spouse became a U.S. citizen

\_\_/\_\_/\_\_

3. Place your spouse became a U.S. citizen (Please see Instructions)

\_\_\_\_\_  
City and State

your spouse is NOT a U.S. citizen, give the following information :

Spouse's Country of Citizenship

2. Spouse's INS "A"- Number (If applicable)

A \_\_\_\_\_

Spouse's Immigration Status

☐ Lawful Permanent Resident ☐ Other

If you were married before, provide the following information about your prior spouse. If you have more than one previous marriage, use a separate sheet of paper to provide the information requested in questions 1-5 below.

Prior Spouse's Family Name (Last Name)

ittbrock

Given Name (First Name)

Jillian

Full Middle Name (If applicable)

n/a

Prior Spouse's Immigration Status

☒ U.S. Citizen

☐ Lawful Permanent Resident

☐ Other

3. Date of Marriage (Month/Day/Year)

0 6 / 0 8 / 1 9 8 8

4. Date Marriage Ended (Month/Day/Year)

0 2 / 0 4 / 1 9 9 4

5. How Marriage Ended

☒ Divorce ☐ Spouse Died ☐ Other

How many times has your current spouse been married (including annulled marriages)?

☐

your spouse has EVER been married before, give the following information about your spouse's prior marriage. your spouse has more than one previous marriage, use a separate sheet of paper to provide the information requested in questions 1-5 below.

Prior Spouse's Family Name (Last Name)

Given Name (First Name)

Full Middle Name (If applicable)

Prior Spouse's Immigration Status

☐ U.S. Citizen

☐ Lawful Permanent Resident

☐ Other

3. Date of Marriage (Month/Day/Year)

\_\_/\_\_/\_\_

4. Date Marriage Ended (Month/Day/Year)

\_\_/\_\_/\_\_

5. How Marriage Ended

☐ Divorce ☐ Spouse Died ☐ Other



## Grant 9: Information About Your Children

**Write your INS "A"- number here:**

A 0 2 9 5 1 2 9 1 8.

How many sons and daughters have you had? For more information on which sons and daughters you should include and how to complete this section, see the Instructions.

Provide the following information about all of your sons and daughters. If you need more space, use a separate sheet of paper.

[illegible]

## Part 10 Additional Questions

Use answer questions 1 through 14. If you answer "Yes" to any of these questions, include a written explanation with this form. Your written explanation should (1) explain why your answer was "Yes," and (2) provide any additional information that helps to explain your answer.

## General Questions

Have you **EVER** claimed to be a U.S. citizen (in writing or any other way)?

☒ Yes ☐ No

Have you EVER registered to vote in any Federal, state, or local election in the United States?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

Have you EVER voted in any Federal, state, or local election in the United States?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

**Since becoming a Lawful Permanent Resident, have you EVER failed to file a required Federal, state, or local tax return?**

<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Yes

**Do you owe any Federal, state, or local taxes that are overdue?**

☐ Yes ☒ No

Do you have any title of nobility in any foreign country?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
Yes	No

Have you ever been declared legally incompetent or been confined to a mental institution within the last 5 years?

☐ Yes ☒ No

Write your DNS "A" number here:  
A 0 2 9 5 1 2 9 1 8

**Part 10 - Additional Questions (Continued)**

**Affiliations**

a. Have you EVER been a member of or associated with any organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place?

☐ Yes ☒ No

b. If you answered "Yes," list the name of each group below. If you need more space, attach the names of the other group(s) on a separate sheet of paper.

Name of Group	Name of Group
6.	
7.	
8.	
9.	
10.	

Have you EVER been a member of or in any way associated (either directly or indirectly) with:

1. The Communist Party?

☐ Yes ☒ No

2. Any other totalitarian party?

☐ Yes ☒ No

3. A terrorist organization?

☐ Yes ☒ No

Have you EVER advocated (either directly or indirectly) the overthrow of any government by force or violence?

☐ Yes ☒ No

Have you EVER persecuted (either directly or indirectly) any person because of race, religion, national origin, membership in a particular social group, or political opinion?

☐ Yes ☒ No

Between March 23, 1933, and May 8, 1945, did you work for or associate in any way (either directly or indirectly) with:

1. The Nazi government of Germany?

☐ Yes ☒ No

2. Any government in any area (1) occupied by, (2) allied with, or (3) established with the help of the Nazi government of Germany?

☐ Yes ☒ No

3. Any German, Nazi, or S.S. military unit, paramilitary unit, self-defense unit, vigilante unit, citizen unit, police unit, government agency or office, extermination camp, concentration camp, prisoner of war camp, prison, labor camp, or transit camp?

☐ Yes ☒ No

**Continuous Residence**

e becoming a Lawful Permanent Resident of the United States:

Have you EVER called yourself a "nonresident" on a Federal, state, or local tax return?

☐ Yes ☒ No

Have you EVER failed to file a Federal, state, or local tax return because you considered yourself to be a "nonresident"?

☐ Yes ☒ No

Write your INS "A"- number here:

A 0 2 9 5 1 2 9 1 8

## Good Moral Character

For the purposes of this application, you must answer "Yes" to the following questions, if applicable, even if your records were sealed or otherwise cleared or if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a record.

5. Have you EVER committed a crime or offense for which you were NOT arrested? ☐ Yes ☒ No
6. Have you EVER been arrested, cited, or detained by any law enforcement officer (including INS and military officers) for any reason? ☒ Yes ☐ No
7. Have you EVER been charged with committing any crime or offense? ☒ Yes ☐ No
8. Have you EVER been convicted of a crime or offense? ☒ Yes ☐ No
9. Have you EVER been placed in an alternative sentencing or a rehabilitative program (for example: diversion, deferred prosecution, withheld adjudication, deferred adjudication)? ☐ Yes ☒ No
10. Have you EVER received a suspended sentence, been placed on probation, or been paroled? ☒ Yes ☐ No
11. Have you EVER been in jail or prison? ☒ Yes ☐ No

If you answered "Yes" to any of questions 15 through 21, complete the following table. If you need more space, use a separate sheet of paper to give the same information.

Why were you arrested, cited, detained, or charged?	Date arrested, cited, detained, or charged (Month/Day/Year)	Where were you arrested, cited, detained or charged? (City, State, Country)	Outcome or disposition of the arrest, citation, detention or charge (No charges filed, charges dismissed, jail, probation, etc.)
Bank Fraud	04/26/1990	N.Y., N.Y., USA	Conviction/incarceration/probation
Grand Theft Auto	04/30/1991	Dade County, Florida,	unknown

For questions 22 through 33. If you answer "Yes" to any of these questions, attach (1) your written explanation why your answer is "Yes," and (2) any additional information or documentation that helps explain your answer.

- Have you EVER:
- a. been a habitual drunkard? ☐ Yes ☒ No
- b. been a prostitute, or procured anyone for prostitution? ☐ Yes ☒ No
- c. sold or smuggled controlled substances, illegal drugs or narcotics? ☐ Yes ☒ No
- d. been married to more than one person at the same time? ☐ Yes ☒ No
- e. helped anyone enter or try to enter the United States illegally? ☐ Yes ☒ No
- f. gambled illegally or received income from illegal gambling? ☐ Yes ☒ No
- g. failed to support your dependents or to pay alimony? ☐ Yes ☒ No
- h. Have you EVER given false or misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal? ☐ Yes ☒ No
- i. Have you EVER lied to any U.S. government official to gain entry or admission into the United States? ☐ Yes ☒ No



**10. Additional Questions (Continued)**

Write your INS "A"- number here:

A 0 2 9 5 1 2 9 1 8

**Removal, Exclusion, and Deportation Proceedings**Are removal, exclusion, rescission or deportation proceedings pending against you? ☐ Yes ☒ NoHave you EVER been removed, excluded, or deported from the United States? ☐ Yes ☒ NoHave you EVER been ordered to be removed, excluded, or deported from the United States? ☐ Yes ☒ NoHave you EVER applied for any kind of relief from removal, exclusion, or deportation? ☒ Yes ☐ No**Military Service**Have you EVER served in the U.S. Armed Forces? ☐ Yes ☒ NoHave you EVER left the United States to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☒ NoHave you EVER applied for any kind of exemption from military service in the U.S. Armed Forces? ☐ Yes ☒ NoHave you EVER deserted from the U.S. Armed Forces? ☐ Yes ☒ No**Selective Service Registration**Are you a male who lived in the United States at any time between your 18th and 26th birthdays in any status except as a lawful nonimmigrant? ☐ Yes ☒ No

If you answered "NO", go on to question 34.

If you answered "YES", provide the information below.

If you answered "YES", but you did NOT register with the Selective Service System and are still under 26 years of age, you must register before you apply for naturalization, so that you can complete the information below:

Date Registered (Month/Day/Year)

Selective Service Number

If you answered "YES", but you did NOT register with the Selective Service and you are now 26 years old or older, attach a statement explaining why you did not register.

**Oath Requirements (See Part 14 for the text of the oath)**

Answer questions 34 through 39. If you answer "No" to any of these questions, attach (1) your written explanation why the answer was "No" and (2) any additional information or documentation that helps to explain your answer.

4. Do you support the Constitution and form of government of the United States? ☒ Yes ☐ No5. Do you understand the full Oath of Allegiance to the United States? ☒ Yes ☐ No6. Are you willing to take the full Oath of Allegiance to the United States? ☒ Yes ☐ No7. If the law requires it, are you willing to bear arms on behalf of the United States? ☒ Yes ☐ No8. If the law requires it, are you willing to perform noncombatant services in the U.S. Armed Forces? ☒ Yes ☐ No9. If the law requires it, are you willing to perform work of national importance under civilian direction? ☒ Yes ☐ No

Write your INS "A"- number here:

A 0 2 9 5 1 2 9 1 8

I certify, under penalty of perjury under the laws of the United States of America, that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information which INS needs to determine my eligibility for naturalization.

My Signature

Date (Month/Day/Year)

03/14/2005

I, Walter Drobenko, declare under penalty of perjury that I prepared this application at the request of the above person. The answers provided are based on information of which I have personal knowledge and/or were provided to me by the above named person in response to the exact questions contained on this form.

Preparer's Printed Name

Walter Drobenko

Preparer's Signature

Walter Drobenko

Date (Month/Day/Year)

Preparer's Firm or Organization Name (if applicable)

Drobenko + Associates, P.C.

Preparer's Daytime Phone Number

(718) 721-2000

Preparer's Address - Street Number and Name

25-84 Steinway St

City

Astoria

State

NY

ZIP Code

11103

## Do Not Complete Parts 13 and 14 Until an INS Officer Instructs You To Do So

Part 13 Signature of Interviewer

I wear (affirm) and certify under penalty of perjury under the laws of the United States of America that I know that the contents of this application for naturalization subscribed by me, including corrections numbered 1 through \_\_\_\_\_ and the evidence submitted by me numbered pages 1 through \_\_\_\_\_, are true and correct to the best of my knowledge and belief.

I subscribed to and sworn to (affirmed) before me

Complete Signature of Applicant

Officer's Printed Name or Stamp

Date (Month/Day/Year)

Officer's Signature

Part 14 Oath of Allegiance

My application is approved, you will be scheduled for a public oath ceremony at which time you will be required to take the following oath of allegiance immediately prior to becoming a naturalized citizen. By signing, you acknowledge your willingness and ability to take the following oath:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, sovereign, or sovereignty, of whom or which I have heretofore been a subject or citizen;

I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic;

I will bear true faith and allegiance to the same;

I will bear arms on behalf of the United States when required by the law;

I will perform noncombatant service in the Armed Forces of the United States when required by the law;

I will perform work of national importance under civilian direction when required by the law; and

I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

Printed Name of Applicant

Complete Signature of Applicant

**EXHIBIT "C"**



Fingerprint Notification		NOTICE DATE April 24, 2005
ASE TYPE I400 - Application For Naturalization		INS # A-029 512 918
APPLICATION NUMBER ISC*001397382	RECEIVED DATE March 28, 2005	PAGE 1 of 1

APPLICANT NAME AND MAILING ADDRESS

RAJKO LJUTICA  
25-84 STEINWAY STREET  
ASTORIA NY 11103



Application Number

To process your application, INS must take your fingerprints and have them cleared by the FBI. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE APPOINTED DATE AND TIME TO HAVE YOUR FINGERPRINTS TAKEN. If you are unable to appear at this time, you may go on any following Wednesday at the same time noted below, as long as you appear before 07/29/2005. If you do not have your fingerprints taken by that date, your application will be considered abandoned.

APPLICATION SUPPORT CENTER  
INS NEW YORK VARICK ST.  
201 VARICK STREET  
1023  
NEW YORK NY 10014

DATE AND TIME OF APPOINTMENT  
05/06/2005  
01:00 PM

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:

1. THIS APPOINTMENT NOTICE and
2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.

PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.

**WARNING:**

Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.

If you have any questions regarding this notice, please feel free to call 1-800-375-5283.

APPLICANT COPY



**EXHIBIT "D"**



N-652, Naturalization Interview Results

On 11/16/05

, you were interviewed by USCIS officer

A#: A29 572 918

WENGENROTH, D.A.O.

☒ You passed the tests of English and U.S. history and government.

☐ You passed the tests of U.S. history and government and the English language requirement was waived.

☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.

☐ You will be given another opportunity to be tested on your ability to \_\_\_\_\_ speak/\_\_\_\_\_ read/\_\_\_\_\_ write \_\_\_\_\_ English.

☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.

☐ Please follow the instructions on Form N-14.

☒ USCIS will send you a written decision about your application.

☐ You did not pass the second and final test of your \_\_\_\_\_ English ability/\_\_\_\_\_ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.

A) \_\_\_\_\_ Congratulations! Your application has been recommended for approval. At this time it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) \_\_\_\_\_ A decision cannot yet be made about your application.

It is very important that you:

☒ Notify USCIS if you change your address

☒ Come to any scheduled interview.

☒ Submit all requested documents.

☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#) and a copy of this paper.

☒ Go to any Oath Ceremony that you are scheduled to attend.

☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS had not made a determination on your application within 120 days of the date of your examination.

**EXHIBIT “E”**



U.S. Department of Homeland Security  
United States Citizenship and Immigration Services  
26 Federal Plaza, Room 700  
New York, NY 10278

Atty for:

Rajko-Ljutica  
130 Malcolm X Blvd Apt. 705  
New York, NY 10029

Date: September 18, 2006  
Alien#: 29 512 918

### DECISION

On November 16, 2005 you appeared for an examination of your application for naturalization, which was filed in accordance with Section 316 of the Immigration and Nationality Act.

Pursuant to an investigation and examination of your application, it was determined that you are ineligible for naturalization for the following reason(s):

See Attachment(s)

If you desire to request a review hearing on this decision pursuant to Section 336(a) of the Act, you must file a request for a hearing within 30 Days of the date of this notice. If no request for hearing is filed within the time allowed, this decision is final. A request for hearing may be made to the District Director, with the Immigration and Naturalization office which made the decision, on Form N-336, Request for Hearing on a Decision in Naturalization Proceedings under Section 336 of the Act, together with a fee of \$265. A brief or other written statement in support of your request may be submitted with the Request for Hearing.

Sincerely,

*Mary Ann Gantner*

Mary Ann Gantner  
District Director Services

Enclosure: Form N-336  
Form N-335 (Rev. 10/24/91)N  
Certified mail/RM  
Cc: Atty



Attachment(s) to Form N-335

Applicant: Rajko Ljutica  
Application for Naturalization, Form N-400  
Alien Number: A 29 512 918

Your application is hereby denied in accordance with the Title 8 Code of Federal Regulations  
Section(s) listed below:

**Reason:** Poor Moral Character, Aggravated Felon  
**CFR8 Reference:** Part 316 General Requirements for Naturalization  
Section 316.10 Good Moral Character

General requirements for Naturalization as stated in Section 316.2 state, in part, that an alien must establish that he or she:

(7) For all relevant time periods under this paragraph, has been and continues to be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States,

Section 101 (f) of the Immigration and Nationality Act states, in part, that, "[f]or the purposes of this Act-No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established, is or was...  
(8) one who at any time has been convicted of an aggravated felony...

Section 316.10 (b) further addresses good moral character by specifying, in part, that:

(1) An applicant shall be found to lack good moral character, if the applicant has been:  
(ii) Convicted of an aggravated felony as defined in section 101 (a)(43) of the Act on or after November 29, 1990.

Section 101 (a) of the INA states, in part:

(43) The term "aggravated felony" means...

(M) an offense that

(i) involves fraud or deceit in which the loss to the victim or victims exceeds \$10,000

Rajko Ljutica  
A 29 512 918

**Explanation:**

According to CIS records and certified court documents that you submitted, you were arrested on or about December 23, 1991 for bank fraud. Your involvement in the bank fraud was having your wife at the time, Jillian Nuttbrock, attempt to wire transfer over \$470,000 from accounts at Paine Webber, where she worked, to an account at Manufacturers Hanover Trust that was under your name. On May 26, 1993, you pled guilty to bank fraud related to the aforementioned charge. On December 17, 1993, you were convicted and sentenced to spend 16 months in jail and to serve two years under supervised release. For this conviction, you spent over one year in jail.

According to Section 101 (a)(43)(M)(i) of the INA, stated above, your conviction for bank fraud in 1993 constitutes an aggravated felony.

**Conclusion:**

You have been convicted of an aggravated felony, as defined in INA Section 101 (a)(43)(M)(i), after November 29, 1990, to wit: December 17, 1993. As such, you are precluded from ever establishing good moral character for naturalization purposes, pursuant to INA Sections 101 (f)(8) and 8 CFR Section 316.10 (b)(1)(ii). You are, therefore, ineligible for naturalization and your application for naturalization is denied.